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REPORT
No. 98-112

OCEAN AND COASTAL DEVELOPMENT IMPACT ASSISTANCE BLOCK GRANT ACT

MAY 16, 1983.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 800]

The Committee on Commerce, Science, and Transportation, to which was referred the bill [S. 800] to establish an Ocean and Coastal Development Impact Assistance Fund and to require the Secretary of Commerce to provide to States national ocean and coastal development and assistance block grants from moneys in the Fund, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF THE BILL

The primary objective of this bill is to establish a Fund from which coastal States shall receive State grants to mitigate onshore impacts of Outer Continental Shelf development, to continue sound management of ocean and coastal resources, and to prepare coastal economies for a future when Outer Continental Shelf nonrenewable resources are depleted.

BACKGROUND AND NEEDS

The Nation's Outer Continental Shelf oil and gas leasing program is complex, controversial and productive. The management regime, which has evolved over three decades, is characterized by Federal ownership and control with the coastal States making a continual effort to attain a legitimate role in the Outer Continental Shelf [OCS] decisionmaking process. This section describes the evo-

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lution of this regime within the framework of American federalism.

THE EXTRACTION OF NONRENEWABLE OCEAN RESOURCES: THE OUTER CONTINENTAL SHELF [1]

Oil and gas development on the Outer Continental Shelf [OCS]

The OCS of the United States is a storehouse of resources of inestimable worth. Although harboring such resources as sulfur, salt, manganese nodules, fish, sand, and gravel, the most immediate interest in the OCS centers around its significant potential for the development of domestic sources of oil and gas.

Since the enactment of the 1953 Outer Continental Shelf Lands Act, the Department of the Interior has leased over 22 million acres for oil and gas development. This acreage contains some 8,000 producing wells that have yielded more than 5.7 billion barrels of oil and more than 53 trillion cubic feet of gas.

Federal offshore waters currently produce about 9.7 percent of U.S. domestic oil and more than 25 percent of U.S. domestic gas. According to the Department of the Interior estimates, 34 percent of the undiscovered oil and 28 percent of the gas in the United States lies beneath the OCS. Some studies indicate that as much as 80 percent of undiscovered oil and gas may lie offshore.[2]

The authority and responsibilities of the Secretary of the Interior for the administration and management of mineral exploration and development on the OCS is contained in the Outer Continental Shelf Lands Act (OCSLA) of 1953 (43 U.S.C. 1331–1343) and the 1978 OCS Amendments (Public Law 95–372; 92 Stat. 629). The OCSLA empowers the Secretary to reduce potential conflicts between OCS activities and the human, marine, and coastal environments. The law, as amended extensively in 1978, establishes three major goals for the comprehensive management of ocean minerals:

(1) to insure orderly and timely development of mineral resources to meet the energy demands of the Nation;

(2) to provide for protection of the environment concomitant with mineral resource development;

(3) to provide for receipt of a fair market value for leased mineral resources.

The ownership of the OCS

Prior to World War II, most coastal States claimed jurisdiction over submerged lands extending outward from the coast to a 3-mile limit. In the 1920's, California issued oil and gas leases for submerged lands off its coast. At first these claims were tacitly recognized by the Federal Government, but this position changed as revenue and resources became more important during the Depression. On September 28, 1945, President Truman issued a proclamation asserting Federal jurisdiction over areas beyond the 3-mile limit.

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[1] The Outer Continental Shelf includes "all submerged lands lying seaward and outside of the area of lands beneath navigable waters and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control." Outer Continental Shelf Lands Act of 1953, Public Law 83–212, section 2(a).

[2] The data in this section have been derived primarily from U.S. Department of the Interior, "Outer Continental Shelf Oil and Gas Leasing and Production Program: Annual Report, Fiscal Year 1982" (April 1983).

Less than a month later, the Federal Government brought suit against the State of California claiming title to undersea lands and resources within the 3-mile territorial sea. In *U.S.* v. *California*,[3] the Supreme Court held that the Federal Government had jurisdiction over all submergerd lands extending from the coast on the basis of considerations of national defense and international relations.

In response to the Court's decision in the *California* case, Congress passed the Submerged Lands Act of 1953 [4] which modified the Court's decision and gave the coastal States control over submerged lands out to and within the 3-mile territorial sea. Because of prior boundary claims, the States of Texas and Florida retained boundaries at 3 leagues, the equivalent of approximatley 10.5 nautical miles.

The 5-year OCS leasing schedule

One of the relatively new and important stages in the Federal management of the OCS is the Secretary of the Interior's 5-year OCS leasing program. Pursuant to section 18 of the Outer Continential Shelf Lands Act, established by the 1978 OCS Amendments, the Secretary is directed to prepare and periodically review a 5-year schedule which, to the "maximum extent practicable" assesses the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone." [5]

Since the oil embargo of 1973, every administration has proposed a significant acceleration of the development of domestic sources of oil and gas, including the OCS. One important mechanism, now at the disposal of the administration, is the 5-year program. Secretary of the Interior Cecil Andrus, during the administration of President Carter, was the first Secretary to propose a 5-year program and schedule. Since the advent of the Reagan administration, the policy of accelerated OCS development has been enhanced even further, through the strenuous and controversial efforts of Secretary of the Interior James Watt to revise the OCS program.

For the first 5-year period of July 1982 through June 1987, the schedule calls for 41 lease sales. Of these, 16 are scheduled for offshore Alaska, 12 in the Gulf of Mexico, 8 in the Atlantic, 4 off California, and 1 reoffering sale. According to the provisions of the program, the initial "call for information" stage will consider entire OCS planning areas. The program provides that, over the next 5 years, some 238 million acres will be included in the initial calls for the Atlantic planning area, 139 million acres in the Gulf of Mexico, 59 million off California, and 557 million offshore Alaska. The total acreage initially offered in the program, therefore, is close to one billion acres.

THE MANAGEMENT OF COASTAL AND OCEAN RESOURCES—THE ROLE OF COASTAL STATES

As each administration attempted to expand our offshore program, it soon became apparent that legal ownership over the OCS

[3] 332 U.S. 19 (1947).
[4] Public Law 83-81.
[5] Section 18(a), OCSLA.

did not confer unquestioned legitimacy over each and every decision affecting resource developing. Specifically, OSC exploration and production is not a self-contained operation. It requires extensive use of State lands for support facilities. Consequently, although the State does not have jurisdiction over areas of OCS production, its proprietary authority over critically important coastal land areas makes it an essential partner in the development of Federal OCS policies and provides it a legitimate interest in decisionmaking over such activities.

Ocean and coastal programs, with Federal standards and State or regional administration, have been developed in recent years and have a direct, or indirect, effect on State managment capabilities concerning activities in or near the coastal zone. Even in the area of fish stock management, considerable authority has been delegated under the FCMA to regional fishery management councils composed of members nominated by affected States. The Coastal Zone Management Act of 1972 and the coastal energy impact program of 1976 involve programs of general, Federal statutory guidelines with financial assistance provided to States to administer their own coastal management and energy impact programs. Federally funded and State administered programs also include the Commercial Fisheries Research and Development Act of 1964 and the Anadromous Fish Conservation Act of 1965.

The sections below discuss the energy-related impacts which provide further impetus for strong State involvement in resource management decisions and the several intergovernmental programs that have begun to build a critical Federal-State partnership in ocean and coastal policies.

Impacts on coastal States from OCS and other energy development

The question of whether coastal related energy development, particularly OCS activity, causes significant impacts on a State's coastal area is one that has been subject to substantial debate in recent years.

During the middle of the last decade, at a time when the coastal energy impact program was being developed and the Arab oil embargo was leading to strenuous efforts at OCS acceleration, many governmental and nongovernmental entities carried out a wide variety of studies on OCS impacts.[6] The results of these broad ranging analyses are inconclusive; some claim that OCS development, in fact, brings net economic and social benefit, while others attrib-

[6] See, for example, the following: Senate Committee on Commerce, National Ocean Policy Study, "Energy Facility Siting in Coastal Areas" (Washington, D.C.: December 1975); Office of the Governor of Texas, "Benefits and Costs to State and Local Governments in Texas Resulting From the Offshore Petroleum Leases on Federal Lands" (Report 25-029-117-NR), November (1974); American Petroleum Institute, "Mid-Atlantic Regional Study", Report Completed by Woodward-Clyde Consultants, (October 1975); "OCS Oil and Gas-An Environmental Assessment: A Report to the President by the Council on Environmental Quality" (April 1974); "Effects of Offshore Oil and Natural Gas Development on the Coastal Zone," A Study Prepared for the Use of Ad Hoc Select Committee on the Outer Continental Shelf, the Library of Congress, Congressional Research Service (March 1976); Office of Technology Assessment, "Coastal Effects of Offshore Energy Systems," United States Congress, Office of Technology Assessment (November 1976); Urban Pathfinders, Inc., "Brown and Root: Impact Study" (February 1975); John T. McAlister, Jr., et al., "The Impact on California's Coastal Zone from Proposed Offshore Oil and Gas Development," Center for Technology Assessment and Resources Policy, Department of Engineering-Economic Systems, Stanford University (July 1975); Council on Environmental Quality, "Oil and Gas in Coastal Lands and Water" (Washington, D.C.: 1977).

ute severe socio-economic and environmental degradation to OCS activities.

If consensus exists, it is that outer continental shelf activity can have significant social, economic and environmental impacts on coastal communities, particularly if there is major production occurring on the OCS and transportation and refining activities are carried out in the immediately adjacent coastal area.

Clearly, the extent of impact from OCS development is dependent on the degree of primary and secondary activities that are carried out in any particular region or local community. Primary activities include those necessary to explore for and develop offshore oil reserves. This category includes the transportation of supplies to drilling rigs, the assembly of production platforms, the laying of pipelines, the construction and operation of onshore treatment facilities, pumping stations and possibly liquified natural gas plants. Secondary activities include those that naturally follow as a result of OCS production. These would include refineries, petrochemical products, platform construction yards and other industries related to the offshore oil industry. Those businesses that service those working for the oil industry are also considered secondary activities. These could include public services such as schools, hospitals, police force, road building, housing, and recreation facilities.

Both primary and secondary impacts from OCS activity will affect land use patterns in the affected areas. The construction and expansion of large-scale industrial facilities clearly affects the way land is used by local communities. New infrastructure and service bases may result in secondary growth impacts in coastal hazard areas or wildlife habitat zones. Other areas, such as neglected urban waterfronts of the northeast, may be able to sustain the boom or bust land use changes of onshore siting and use OCS activity to foster revitalization. Some communities, on the other hand, may find the impacts of land use changes associated with OCS development difficult to absorb.

The Coastal Management Improvement Act of 1980 made a number of important changes to the existing law. It clarified national coastal policy by providing more specificity in section 303 (Policy) of the CZMA. It then provided that the Secretary of Commerce, prior to awarding the section 306 grant, must find that the State would expand an increasing proportion of each grant, up to a maximum of 30 percent, on activities that will result in significant improvements being made in achieving the coastal management objectives specified in section 302. These changes reflected the committee's desire to see State programs make improvements in their goals, processes, and structure. The 1980 legislation also strengthened the evaluation process whereby the Federal coastal zone office reviews a State's performance, established a program of impact grants for coal transportation in the CEIP section of the law, provided for a two-house congressional disapproval process for CZM regulations, and reauthorized the program for 5 years.

Another important change made by the 1980 legislation was a new section of activities authorized by CZM entitled the "Coastal Resource Improvement Program." Based on the premise that CZM was now ready, on a limited basis, to move from a process-oriented

program into the early stages of implementation and management, these new activities, contained in section 306A, were intended to provide States with the incentive to implement their management programs with specific results anticipated. Generally, section 306A provides assistance to States in meeting low-cost construction, land acquisition, and shoreline stabilization costs associated with the designation of areas of preservation and restoration, the revitalization of urban waterfronts and ports, and public access to coastal areas.

The coastal energy impact program

Although the CZMA was enacted in 1972, the first program development grants were not awarded to States until 1974. By that time, a major new coastal issue had emerged—the impacts of the increased rate of oil and gas exploration and development activities offshore. Pursuant to Project Independence in the Nixon administration, the Federal Government indicated its intention to lease immediately 10 million acres on the OCS. This would have been the equivalent of the total acreage leased on the OCS in the prior 20 years. The anticipation of severe community and environmental disruptions emerging from such acclerated development, particularly in rural areas, brought strong pressures from coastal States for energy impact assistance.

The congressional response was the Coastal Zone Management Act Amendments of 1976[7] which created a $1.2 billion program of loans and grants to help States and localities address the impacts associated with OCS activities. The new program, called the coastal energy impact program [CEIP], was authorized for 10 years (1976–86).

The CEIP, as amended in 1978 and 1980, is complex and multifaceted. Essentially, it is composed of three separate parts. First, the so-called OCS formula grants involve projects and programs which are necessary to provide new or improved public facilities and services or to prevent or reduce the unavoidable loss of any valuable environmental or recreational resource that are required as a result of, or result from, Outer Continental Shelf and coastal energy activity. The allocation to States of these grants is based on a three part formula involving OCS leasing adjacent to the State, OCS production adjacent to the State, and oil and natural gas first landed in such State.

The second part of the CEIP contains various grants that can be made by the Secretary of Commerce to any coastal State which (1) needs planning funds because its coastal zone is being significantly affected by energy facilities; (2) is likely to be affected by OCS activities and, thus, requires assistance to carry out its responsibilities under the OCSLA; [8] and (3) requires funds to prevent or

[7] Public Law 94-370.

[8] Coastal State participation in the various stages of OCS planning, exploration, and development is extensive—made even more so as a result of the 1978 OCS amendments. Although there have been a number of reports and studies on state participation in the OCS program, perhaps, the most detailed assessment has been carried out by the New England River Basin Commission in a series of studies conducted under agreement with the Department of the Interior's Geological Survey, Sec, New England River Basin Commission reports: "Strategies for State Participation in OCS Exploration Decisions". (February 1979); "State Participation in Outer Continental

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reduce any loss in its coastal zone of any valuable environmental or recreational resource if such loss results from the transportation or storage of coal or from alternative ocean energy activities.

The third part of the program is the Coastal Energy Impact Fund from which loans, bond guarantees, and grants are provided to States that are being affected by various OCS-related activities. In general, the fund provides loans and bond guarantees for the provisions of new or improved public facilities and services made necessary by coastal energy activity, repayment grants to meet loan or bond obligations in situations in which the energy activity failed to provide adequate revenues to offset the indebtedness, grants for States that suffer the loss of a valuable environmental or recreational resource if the costs of such loss cannot be assessed against any identifiable source, and grants to study and plan for economic and environmental impacts resulting from energy facilities in the coastal zone.

Living marine resource programs

More than a century ago, the Federal Government realized that it had a major responsibility with respect to the management of marine fish stocks. In 1871, the Office of the Commissioner of Fish and Fisheries was established and, since that time, the Federal Government has become involved in fisheries management and development at all levels. Fishery resources have, slowly but steadily, become an increasing source of protein for the United States consumer and the government's programs in fisheries include conservation, management to assure that habitats are protected and stocks are not depleted, basic research, environmental protection, pollution abatement, and financial and technical assistance.

A number of Federal laws are directed to assist recreational fishing although some are intended to affect the commercial fishing industry. Some of these programs involve grants to States for administration and management. For example, the Commercial Fisheries Research and Development Act [9] was enacted in 1964 to provide assistance to States to stimulate commercial fishery research and development and to provide assistance in the instance of a commercial fishery failure due to a resource disaster of natural or undertermined causes. The Commercial Fisheries Act provides for 75 percent Federal matching grants to States for research on, and the development of, commercial fisheries. Funds are apportioned among the 50 States, Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, according to a formula based on the value of each State's raw fish landings and processed product, whether domestic or imported. Each State is guaranteed at least one-half of 1 percent, but no more than 6 percent of each fiscal year's appropriation. Since fiscal year 1966, when funds for State project grants were first appropriated, 867

Shelf Transportation Decisions" (July 1981; and "OCS Pipeline Construction and Operation: Potential Environmental Problems and Recommendations for Mitigation of Impacts" (April 1981). As these and other studies point out, State participation in OCS decisionmaking is complex and costly. As a result, Congress included these OCS state participation grants as a provision of the 1978 amendments to the OCSLA. These grants were included in a section of amendments to the Coastal Zone Management Act, contained in Title V of the 1978 amendments.

[9] Public Law 88-309.

projects have been initiated at a total Federal-State cost of $84 million.

Another example of a Federal-State fishery program is the Anadromous Fish Conservation Act [10] which was enacted in 1965 for the purpose of conserving, developing and enhancing U.S. anadromous fishery resources including those species in the Great Lakes and Lake Champlain which ascend streams to spawn. Species covered under the act include salmon, steelhead trout, walleye, shad, river herring, alewives, sturgeon, and striped bass. These fish contribute heavily to commercial and recreatonal fisheries in 30 of our States.

The Act authorizes the Secretaries of the Interior and Commerce to enter into cooperative agreements with States and non-Federal organizations to carry out projects designed to promote the conservation of anadromous species. The Interior Department generally funds projects relating to sport fisheries while the Commerce Department focuses on projects of benefit to commercial fisheries. Approximately 50 percent of the cost of such projects are borne by the recipients.

Since the passage of the Anadromous Fish Conservation Act, $76 million has been appropriated and has resulted in economic benefits to the Nation of at least $1.2 billion.

The national sea grant college program

The sea grant program was created in 1966 by legislation and revised in 1976 by the National Sea Grant College Program Act. The purpose was to accelerate research, education and advisory services in marine resources, including conservation, management, and utilization. The term "sea grant" was chosen to emphasize its parallel with the century-old "land grant" program with its system of research, education, and extension services. Originally assigned to the National Science Foundation, sea grant was transferred to the National Oceanic and Atmospheric Administration [NOAA] when NOAA was established by Executive Order No. 4 in 1970.

A matching fund Federal grant program was established for the designation and operation of sea grant colleges and university-based research programs. The program provides grants to pubic and private universities, institutions, laboratories and agencies engaged in or concerned with the development of marine resources. Current law provides that up to two-thirds of the total cost of a project can be from Federal funds and the remainder from State or private funds.

Sea grant activities are divided into three main areas: research, education and advisory services. In fiscal year 1980, 60 percent of sea grant's budget was allocated for research, 10 percent for education, 21 percent for advisory services, and the balance for program development and management.

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[10] Public Law 88-304.

A BREAKDOWN IN THE FEDERAL-STATE PARTNERSHIP: SOME PROBLEMS IN THE OCS PROGRAM

As indicated by the above discussion, the last decade was one in which Federal-State relations in resource management programs, stimulated by events outside the political system, went through a "sortingout" process. As the decade came to a close, regulations implementing the new amendments to the OCSLA were being promulgated, the coastal zone management program was reauthorized, the national sea grant program and living marine resource efforts were continuing, and there was a steady acceleration of offshore lease offerings.[11]

It would be inaccurate to assert that a completely harmonious Federal-State cooperative OCS program has existed since the enactment of the Coastal Management Act, the coastal energy impact program, or the Outer Continental Shelf Lands Act Amendments. Clearly, serious conflict between the Federal and coastal State governments was inherent in a major acceleration of offshore leasing. The issue is not whether there were strains in the structure of American federalism with respect to OCS development, but rather the depth and intensity of such strains.

Nineteen of the 28 lease sales have been challenged by litigation. Nine of the lease sales were challenged by the States of Louisiana and Texas over the interpretation of section 8(g) involving the fair and equitable disposition of revenues generated by Federal leases within 3 miles of the States' seaward boundary. The other suits involved the timing and procedures followed by the Department of Interior in the lease sales which diminished the role of the coastal States and other affected parties in the decisionmaking process.

It can be argued, however, that the partnership that Congress had attempted to put in place through a series of legislative enactments was beginning to bear fruit. In 1981, the acreage offered and the 2.23 million acres actually leased (424 tracts) represents the most prolific offshore leasing in the history of the program. In 1982, almost 5.7 million acres were offered and over 1.8 million acres were leased (357 tracts). Despite the litigation, the fact remains that most tracts offered and leased were not the subject of coastal State opposition. Clearly, many other factors help explain these record numbers for 1981, but it must be recognized that State coastal management consistency decisions for OCS exploration and development plans were being made expeditiously as State programs began to mature.

Inconsistent policies: Accelerating OCS leasing and terminating ocean and coastal programs

Just as the management programs of individual coastal states continue to mature and the early effects of the 1978 OCS amendments begin to materialize, the administration has proposed the

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[11] Seven new records were set by the OCS program in 1981. Specifically, for the first time in the 27 year history of the program, over two million offshore acres were leased, seven OCS sales were held, more than $9.8 billion in revenue was received, approximately $6.6 billion in bonuses were paid, an estimated $3.2 billion will be received in royalty payments, the amount of acreage offered reached a record high 7.68 million acres, and the highest amount paid for one tract rose to $333.6 million. Department of the Interior News Release, Jan. 11, 1982.

termination of Federal support for the coastal zone management program, the coastal energy impact program, and the national sea grant program. Additionally, the administration is proposing major reductions in the category of living marine resources including the termination of the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act. These budgetary proposals by the administration came at the same time that the Department of the Interior has been vastly accelerating offshore oil and gas leasing. Many interested parties, both within and outside the Congress, have questioned the advisability of terminating programs, which provide the States with the primary vehicles for OCS participation, at a time when competing use conflict is escalating.

The administration bases its argument for the termination of Federal funding of these programs on the fact that such programs "were considered in competition with other Federal programs and were found *to be sufficiently successful* to be returned to the states." [12] (Emphasis added.)

One dimension of this argument is that the programs are valuable, have been successful, and thus serve only State interests and should be financed entirely by those States.

This assertion, however, fails to recognize that the coastal programs in question serve critical matters of national interest—which is one of the reasons that Congress initially enacted such programs and provided Federal financial assistance. Second, the administration's argument that States will assume the fiscal responsibility for such programs is contrary to the overwhelming evidence received by the committee during its various hearings on this matter.

The acute budgetary problems being faced by State governments makes it clear that the removal of Federal financial assistance for coastal management and the other programs discussed here will lead to either termination of the States' programs or major and fundamental reductions in their capabilities and staff. In a survey of its member States, the Coastal States Organization concluded that the termination of coastal management funding will destroy or seriously impair coastal zone management programs across the Nation. The result will be that the existing statutory review responsibilities and procedures for OCS and other coastal-related development activities would be seriously diminished, affecting the rate at which permits could be issued.

Equally distressing assessments about the impact of the budget proposals on the national sea grant college program were received in extensive testimony. Generally, it is anticipated that most States will not be able to absorb the costs of the sea grant program that will be lost if Federal funding is terminated. The critically important national sea grant program involves scientific and basic research collaboration among universities, industry, and local government. The Federal role in the program insures that the benefits derived are available for application nationwide. The common nature of most of our nation's marine resources argues strenuously for

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[12] See Department of Commerce report on H.R. 5543, reprinted in U.S. House of Representatives Report No. 97-628.

continued investment by the Federal Government in the long-term research that is essential to the wise use, development and conservation of those resources.

Finally, the administration's budget for fiscal year 1984 indicates that NOAA will be asked to make additional significant reductions in its traditional role in the management of living marine resources. Reductions and eliminations of many programs in this category are based on the assertion that such programs are more adequately the responsibility of the States. In addition to termination of the anadromous fisheries grants and the commercial fisheries research and development program, other NOAA budget reductions within the category of ocean fisheries and living marine resources total some $47 million. Such activities include marine resources monitoring, conserving marine resources, restoring and increasing fishery resources, and managing and using fishery resources. Other budget reductions, although not directly increasing State responsibility, will constrain the availability of reliable information and require the States to either fill this void or do without such information.

Damage to the partnership implications for the OCS program

Offshore production of oil has decreased dramatically in recent years. The U.S. share of worldwide offshore production has been reduced from 21.7 percent in 1970 to only 7.6 percent in 1980. The Department of the Interior asserts that there is a direct correlation between higher success rates in other countries and their ability to make major offshore acreage more readily available. This position has formed one of the primary premises behind the Secretary's acceleration of the leasing schedule and amount of acreage offered.

A precise and singular explanation of recent reductions in OCS exploratory and development activities is impossible. Certainly, it is a multi-dimensional problem that requires an examination of many variables. The market price of oil and gas; the availability of capital, equipment, and manpower; the level of interest rates; prior commercially viable discoveries of oil or gas in the vicinity of a new lease sale; and the state of technology for deep water drilling and harsh environments are simply some of the factors that help explain the offshore energy industry.

Nevertheless, the policies of Government and the predictability of lease sales is a critical factor in determining industry interest in OCS activities. The extent to which Federal-State conflicts over offshore policies contributes to lease sale uncertainty and, thus, to deterring such interest is a matter that is subject to considerable conjecture.

It is clear that predictability in lease sales and the 5-year schedule is dependent, to some undetermined extent, on coastal States that exercise legal authority over their ocean margin areas for OCS staging operations, processing plants, and transportation facilities and which have consistency authority to approve exploration and development plans pursuant to the coastal management program. Such cooperation on the part of State and local governments is a necessary, although not totally sufficient, condition for predictability in accelerating the OCS program.

It is clear that the stresses in the structure of federalism contribute to some uncertainty with respect to offshore poicies. This is not to argue that the Department of the Interior or the coastal States are "right" in the pursuit of their respective policies. Simply stated, divided authority in the structure of the different levels of government in the United States plays an important role in OCS decisions. It would be in the interest of all concerned if such divided authority could work together in the type of partnership that Congress attempted to forge through the enactment of programs discussed in this report.

It is the judgment of a majority of the committee that the terminations will result in continued degeneration of the Federal-State partnership on the OCS and will further exacerbate an already difficult situation. In particular, the committee is concerned about the following potential ramifications.

First, such action would abandon the national interest objectives pursued through the enactment and development of these programs.

Second, with the acceleration of OCS and other energy activity in or near the coastal area, a resource management program is essential for the protection of natural, ecological, recreational and esthetic resources of immediate and potential value to the Nation. The coastal management and CEIP programs were designed to address, among other factors, the impacts of energy activities. Accelerated OCS development must be carried out in an environmentally sensitive manner, based on sound and rational resource management decisions made by the affected States.

Third, States will find it extraordinarily difficult to address the impacts from OCS development if they lose a large portion of the staff that has developed an expertise in coastal zone matters. The loss of programs and staff will, in the long run, delay the OCS program as emotionally based arguments, rather than rationally based management decisions will unnecessarily impede future leasing policies. Even though State coastal management programs may be terminated or seriously weakened, Federal consistency authority will presumably remain. That authority could be used recklessly in weakened or nonexistent programs that are seriously understaffed. A strong and viable system of sea grant, living marine resource, coastal management, and coastal energy impact programs will be beneficial to an accelerated OCS program—not, as some have argued, a deterent to such program.

In summary, it is impossible to predict the impact on the OCS program resulting from the serious damage to the Federal-State partnership occasioned by the administration's budget proposals. The direction of the impact, however, appears evident. The potential effects of coastal energy activity on fragile coastal resources could be significant in the absence of full and responsible participation by State in OCS and other energy-related development. The absence of funding for States to accomplish this, among other factors, could lead to inefficiency in decisionmaking, an end to permit simplification procedures being established by the States, a significant slowdown in Federal consistency decisions, and a potential for acceleration of litigation against specific lease sales. Rather, an effective Federal-State partnership is essential if we are to attain im-

portant national objectives in OCS exploration and development and wise ocean and coastal management; consequently, an alternative funding mechanism for the States, and the program described above, is essential.

FEDERAL REVENUES FROM THE OCS: A QUESTION OF SHARING—AN ISSUE OF EQUITY

One of the most difficult and fundamental factors involved in the issue of OCS revenue sharing is that of equity between states with onshore resources and States with adjoining OCS lands. This argument has persisted throughout the last decade. Recently, however, the combined effect of increasingly large Federal revenues from OCS leasing and acutely severe, State budgetary shortfalls has rekindled this controversy. The following discussion will detail several contributing factors: the status of OCS revenues Federal revenue sharing in conjunction with interior lands leasing and past efforts at OCS receipt sharing. Several important conclusions are drawn by this discussion: first, that disparate policies are applied in the disposition of Federal receipts from onshore versus offshore leasing; second, that those policies confront the coastal States with an inequitable and threatening situation when faced with OCS-related activity and; third, that a Federal legislative remedy is necessary if we are to meet national objectives in OCS energy production and sound ocean and coastal management.

The status of OCS revenues

Federal revenues received from outer continental shelf oil and gas exploration and development activities represent the second largest source of income to the U.S. Treasury, behind only Internal Revenue Service income taxes. Receipts generated by the OCS program are comprised of bonus bids, royalty payments, and rents.

Bonus bids are paid by oil and gas companies, through a competitive bidding process, to receeive a lease from the Federal Government for exploration and development. Royalty payments are derived from a percentage (normally 16⅔ percent for OCS lands) of the oil and gas production on leased land. Rental revenues are received from land under lease and are generally very nominal.

From the beginning of the Federal OCS program in 1953, through the end of 1982, some $57 billion has been paid to the United States; of this amount, approximately 70 percent has come from bonus bids.

TABLE I.—OCS REVENUES FROM 1953 to 1982[1]

[In billions of dollars]

Years	Bonuses	Royalties	Rents	Total
1953–71	4.47	1.87	0.11	6.45
1972	2.25	.36	.01	2.62
1973	3.08	.40	.01	3.49
1974	5.02	.56	.01	5.59
1975	1.09	.62	.02	1.73
1976	2.24	.70	.02	2.96
1977	1.57	.92	.02	2.51
1978	1.77	1.15	.02	2.94

TABLE I.—OCS REVENUES FROM 1953 to 1982[1]—Continued

[In billions of dollars]

Years	Bonuses	Royalties	Rents	Total
1979	5.08	1.52	.02	6.62
1980	4.20	2.14	.02	6.36
1981	7.83	2.29	.02	10.14
1982	2.68	3.53	.04	[2] 6.25
Total, 1953–82	41.28	15.06	.32	57.66

[1] Figures through 1980 are tabulated on calender year basis, while 1981 and 1982 figures are tabulated on a fiscal year basis.
[2] For fiscal year 1982, the bonus category includes $250 million released from escrow accounts, and the royalty category includes $350 million released from escrow.

Source: For figures through 1980 see: GAO Report, "Outlook For Achieving . . .", op. cit., p.—; and "Outer Continental Shelf Oil and Gas Leasing and Production Program", Annual Reports for Fiscal Years 1981 and 1982, Department of the Interior.

All OCS revenues go into the general fund of the United States Treasury except for those associated with the land and water conservation fund. The Land and Water Conservation Fund Act of 1965 [13] was enacted to provide financial stimulus for a nationwide program to create new and expanded opportunities for outdoor recreation. The program, administered by the National Park Service, provides funds to Federal agencies and to the States, for acquisition and development of public lands for recreational purposes.

Recently, estimates of future OCS revenues have been the subject of considerable debate. In February 1982, the administration announced that projected offshore revenues would be $18 billion for fiscal year 1983. The Congressional Budget Office (CBO), on the other hand, estimated only $12.8 billion for fiscal year 1983. On April 10, 1982, the administration reduced its prediction—from $18 billion to $15.7 billion. Further reduction of this estimate has occurred since. Table II below shows estimates of future OCS revenues from the CBO and the administration. Accuracy in such estimates is difficult to achieve and is dependent on a number of factors. The administration based its estimates on substantial increases in revenues from Gulf of Mexico leasing and the transfer of escrowed funds from prior sales. Not only are these factors uncertain, others which impact on the achievement of OCS revenues include: (1) the Department's ability to estimate the oil and gas resources in offshore leasing areas; (2) industry's interest and willingness to increase its offshore activities; (3l) future economic conditions, including market prices and interest rates; and (4) public acceptance and successful implementation of the Department's proposed 5-year leasing program.

TABLE II.—ESTIMATES OF FUTURE OCS REVENUES, FISCAL YEARS 1983–88 [1]

[In millions of dollars]

Fiscal years	Congressional Budget Office [2]	Office of Management and Budget [3]	Previous administration estimates [4]
1983	10.1	10.5	11.8
1984	8.8	10.0	11.9
1985	9.2	9.5	12.2
1986	13.4	10.4	13.4

[13] Public Law 88–578.

TABLE II.—ESTIMATES OF FUTURE OCS REVENUES, FISCAL YEARS 1983–88 [1]—Continued

[In millions of dollars]

Fiscal years	Congressional Budget Office [2]	Office of Management and Budget [3]	Previous administration estimates [4]
1987	11.5	10.7	14.4
1988	11.2	11.2	15.1

[1] Figures include transfers from section 8(g) escrow accounts. Differences in CBO and OMB estimates are largely due to assumptions concerning the timing for the release of funds from escrow accounts.
[2] CBO Baseline Projection, January 1983.
[3] Current Budget Estimates, OMB, April 1983.
[4] Director of Budget, Department of the Interior, March 4, 1983.

Sharing Federal revenues with States—the equity issue

During the first 6 months of fiscal year 1982, 23 States received direct payments for Federal development activities from the Federal Government that totaled over $892 million (table III).

Conversely, oil and gas leasing on the Nation's OCS, that produced revenues close to $10 billion in fiscal year 1981, resulted in no direct Federal payments to coastal States. Moreover, coastal States have no demonstrated authority to tax activities beyond their territorial sea and thus, have severely limited abilities to derive revenues from federally sanctioned OCS development.

These points illustrate one of the factors underlying the issue of the OCS program and the breakdown of the Federal-State partnership—the difficult issue of equity between States with onshore resources and coastal States. It is the opinion of the committee that current Federal policy regarding Federal lands leasing has resulted in a serious economic inequity. This judgment is predicated upon several major arguments.

TABLE III.—REVENUE SHARING PAYMENTS TO STATES, FISCAL YEAR 1982

State	Total payment	National forest receipts	Taylor Grazing Act	Mineral Leasing Act	Payments in lieu of taxes	Miscellaneous [1]
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Alabama	1,675,381	1,243,261	.....	156,559	112,030	163,531
Alaska	31,910,276	5,430,372	.....	23,001,066	3,475,036	3,802
Arizona	15,954,686	2,239,423	271,631	5,252,023	8,173,200	18,409
Arkansas	26,900,587	2,413,838	.....	21,619,642	1,195,865	475,600
California	60,316,418	18,930,649	223,753	29,764,706	10,860,626	760,437
Colorado	46,747,342	1,725,118	195,939	37,995,290	6,608,468	222,527
Connecticut	14,491	.....	.....	.....	12,208	2,283
Delaware	79,081	.....	.....	.....	4,520	74,561
District of Columbia	5,600	.....	.....	.....	5,600	.....
Florida	4,318,764	1,956,376	.....	65,473	1,756,841	539,774
Georgia	2,043,963	707,413	.....	.....	713,699	622,851
Guam	211	.....	.....	.....	211	.....
Hawaii	33,015	.....	.....	.....	9,774	23,241
Idaho	16,252,556	4,933,489	373,366	3,980,349	6,868,043	97,209
Illinois	702,652	141,867	.....	.....	281,411	279,374
Indiana	462,412	155,719	.....	.....	262,617	45,076
Iowa	193,586	.....	.....	.....	117,595	75,991
Kansas	1,055,176	.....	144	644,292	331,418	79,322
Kentucky	949,010	271,505	.....	.....	659,544	17,961
Louisiana	4,029,027	2,211,352	.....	750,594	160,598	906,123
Maine	105,489	20,155	.....	.....	38,798	46,536
Maryland	205,294	.....	.....	.....	77,748	127,546

TABLE III.—REVENUE SHARING PAYMENTS TO STATES, FISCAL YEAR 1982—Continued

State	Total payment	National forest receipts	Taylor Grazing Act	Mineral Leasing Act	Payments in lieu of taxes	Miscellaneous [1]
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Massachusetts	211,808				76,783	135,025
Michigan	2,586,164	891,803		59,718	1,317,094	317,549
Minnesota	3,335,376	1,236,607			1,045,207	1,053,562
Mississippi	6,454,355	5,395,693		42,489	335,393	680,780
Missouri	2,549,699	1,842,518			527,873	179,308
Montana	28,453,664	4,566,283	368,731	15,508,995	7,213,567	796,088
Nebraska	970,948	50,933	157,896	156,353	270,006	335,760
Nevada	17,536,737	278,992	578,701	11,466,047	5,069,148	143,849
New Hampshire	605,693	300,798			297,586	7,309
New Jersey	310,554				62,789	247,756
New Mexico	162,677,335	1,078,361	660,031	151,703,797	8,934,783	300,363
New York	287,334				149,526	137,808
North Carolina	2,304,033	771,117			1,153,918	378,998
North Dakota	21,365,889	68	10,014	4,606,899	513,314	9,435,662
Ohio	582,838	89,549			431,078	62,211
Oklahoma	4,085,740	280,025	347	2,534,367	711,667	559,334
Oregon	149,726,058	46,851,495	330,195	1,495,405	2,531,671	98,517,292
Pennsylvania	1,529,651	1,091,565			364,256	73,830
Puerto Rico	31,301	13,516			2,597	15,188
Rhode Island	37,691					37,691
South Carolina	3,551,682	3,278,844			102,690	170,148
South Dakota	3,244,518	270,204	95,330	780,507	1,613,128	485,345
Tennessee	1,031,271	381,011			525,563	124,697
Texas	3,596,921	1,519,025			1,362,537	715,359
Utah	84,364,777	676,114	263,673	75,426,026	7,929,891	69,073
Vermont	174,773	110,245			59,887	4,641
Virginia	2,068,325	449,340			1,268,268	350,717
Virgin Islands	21,130				19,255	1,875
Washington	20,353,728	18,108,430	31,750	91,128	1,594,873	527,547
West Virginia	972,747	214,997			754,481	3,269
Wisconsin	1,265,280	512,581			543,490	209,209
Wyoming	158,253,701	659,614	874,658	148,990,982	6,973,505	754,942
Total	890,596,272	133,327,325	4,279,805	536,092,705	95,482,034	121,414,403

[1] Prior year adjustment.

Note: This category represents the total amount of revenues shared under the following legislation: 31 U.S.C. 711, 65 Stat. 252, 43 U.S.C. 1181f, 7 U.S.C 1012, 53 Stat. 753, 16 U.S.C. 715.

First, OCS mineral development is the only exception to a long-standing Federal policy of sharing, with affected States, a significant portion of receipts from resource development activities on federally owned lands. An outline of Federal lands revenue sharing programs is contained in table XV.

TABLE IV.—FEDERAL LAND PAYMENTS TO STATES

[Adapted from Bureau of Land Management Report: Payments in-Lieu of Taxes, Sept. 30, 1981]

Provisions of law	Agency making payment	Types of receipts	Disposition of receipts
(1) Act of May 23, 1908; Department of Agriculture Appropriation Act; 35 Stat. 251, 16 U.S.C. 500.	U.S. Forest Service	Moneys received from each National Forest *ERR97*from timber sales.	23 percent of gross to States for counties; 65 percent to U.S. Treasury; 10 percent to forest roads appropriation.
(2) Act of June 20, 1910, Enabling Act of Arizona and New Mexico, 35 Stat. 55.	do	Proceeds from all National Forests as area of land granted for schools in a forest bears to area of all National Forests in State.	100 percent to States for schools.

TABLE IV.—FEDERAL LAND PAYMENTS TO STATES—Continued

[Adapted from Bureau of Land Management Report: Payments in-Lieu of Taxes, Sept. 30, 1981]

Provisions of law	Agency making payment	Types of receipts	Disposition of receipts
(3) Act of Feb. 25, 1920 (sec. 35), Mineral Lands Leasing Act; 41 Stat. 450; 30 U.S.C. 191.	Bureau of Land Management	Moneys received from mineral leasing.	50 percent to States (90 percent of Alaska); 40 percent to reclamation fund; 10 percent to U.S. Treasury.
(4) Federal Power Act (sec. 17), 1 Stat. 1072; 16 U.S.C. 810.	Federal Energy Regulatory Commission.	Charge for occupancy and use of National Forests and Public Lands.	12½ percent to U.S. Treasury; 37½ percent to States; 50 percent to reclamation fund.
(5) Taylor Grazing Act (sec. 10), 43 U.S.C. 3151.	Bureau of Land Management	Proceeds from sec. 3 grazing receipts (within grazing districts).	12½ percent to States for counties; 37½ percent to U.S. Treasury; 50 percent to range improvement fund.
		Proceeds from sec. 15 grazing receipts (outside grazing districts).	50 percent to States for counties; 50 percent to range improvement fund.
(6) Bankhead-Jones Farm Tenant Act (sec. 33); 50 Stat. 526; 7 U.S.C. 1012.	Bureau of Land Management, U.S. Forest Service.	Revenues from use of the lands.	25 percent to counties; 25 percent to U.S. Treasury; 50 percent to range improvement fund.
(7) Act of June 22, 1948; Superior National Forest, State of Minnesota. 62 Stat. 570; 16 U.S.C. 577q..	U.S. Forest Service	Percentage of fair appraised value.	¾ of 1 percent of appraised value of land paid in addition of act of May 23, 1908; 16 U.S.C. 500.
(8) Act of June 22, 1956, to amend act of June 22, 1948; 70 Stat. 366; 16 U.S.C. 355.	do	Same as (7) above	Same as (7) above.
(9) Mineral Leasing Act for Acquired Lands (sec. 6); 61 Stat. 915; 30 U.S.C. 355.	Bureau of Land Management, U.S. Forest Service.	Moneys received from mineral leasing.	Varies depending upon agency.
(10) Material Disposal Act (sec. 3); 61 Stat. 681, 30 U.S.C. 603..	do	Net revenues from sale of lands and materials.	Varies depending upon type of receipt and agency.
(11) Refuge Revenue Sharing Act; 92 Stat. 1321; 16 U.S.C. 715s(c)(2).	U.S. Fish and Wildlife	Revenue from sale of timber, grazing and minerals on reserve area lands and sale of carcasses of certain animals.	25 percent net receipts to counties; 75 percent to refuge revenue sharing fund.

Second, in the case of onshore leasing, the States have broad recourse for cost recovery to address the impacts of Federal leasing activities.

Third, it seems unreasonable that the burden of supporting OCS development—a Federal activity—should be placed upon coastal States and communities that have severely limited abilities to recover associated costs.

With the notable exception of OCS development, it has been the longstanding policy of the Federal Government to share, with States that must host ancillary activity, a significant portion of the receipts from resource development on Federal lands. The United States initiated this policy in the early 1900's to ease State opposition to Federal retention (versus disposal or transfer to States) of interior lands and to encourage settlement of undeveloped western lands. A more contemporary explanation of this policy is that such payments compensate the States for adverse impacts associated with Federal leasing activity.

With respect to the leasing of onshore lands, Federal policy has been one of providing affected States with opportunities to recover impact costs. Basically, three revenue sources are available: (a) shared Federal leasing receipts, (b) Federal payments in lieu of taxes, and (c) State taxes on assets of the lessee, including extracted minerals.

Onshore revenue sharing programs.

The sharing of revenues with affected States is an integral component of virtually all programs of Federal lands management.

Under the national forest receipts program,[14] 25 percent of all proceeds from the sale of timber from national forests is paid to the State within which those Federal lands are located. In fiscal year 1982 this program resulted in more than $133 million in direct payments to States. These revenues are to be expended as the State legislature may prescribe, for the benefit of the public schools and public roads of the county in which the national forest is located.

The Mineral Lands Leasing Act of 1920 [15] was designed to promote orderly development of public owned mineral deposits by establishing a system of competitive leasing for Federal, mineral-bearing lands. Thus, this act provides an incisive analogy to mineral leasing under the Outer Continental Shelf Lands Act.

Under provisions of the act of 1920, 50 percent of the receipts from the leasing of Federal, mineral-bearing lands are shared directly with the State within which those lands are located. Shared funds may be used by the recipient State, as prescribed by the State legislature, giving emphasis to socially or economically impacted area. For fiscal year 1982, States received over $536 million in direct payments under this act.

Forty percent of leasing receipts are channeled into a special reclamation fund. Money from this fund is appropriated by the Congress to finance activities of the Bureau of Reclamation within 17 Western States.

These activities include the planning, construction and operation of irrigation facilities, municipal and industrial water supplies and hydro-power and flood control projects. The administration's budget for fiscal year 1983 requests appropriations of more than $508 million from this fund. Thus, although this 40 percent is not shared directly, it is "earmarked" for public purpose projects in the mineral-producing western States—a significant sharing of Federal revenues.

Under provisions of the Mineral Leasing Act, the States receive, through direct payments and transfers from the reclamation fund, up to 90 percent of receipts from the leasing of onshore, Federal, mineral-bearing lands. Only 10 percent of such receipts are deposited into the U.S. Treasury.

Payments in lieu of taxes

Public Law 94–565, enacted in October 1976, and commonly referred to as the "Payments In-Lieu of Taxes Act," directs the Sec-

[14] 35 Stat. 251.
[15] 30 U.S.C. 181 et seq.

retary of the Interior to make payments to each unit of local government within which certain Federal lands are located. The purose of this legislation is to compensate local governments for property taxes lost as a result of Federal ownership of lands and to supplement other Federal land, revenue sharing payments. Under this act, payments in lieu of taxes are authorized to counties and other units of local government within which are situated lands administered by agencies of the Federal Government.

The amount of any in-lieu payment to a local government is the greater of the following: (1) 75 cents for each acre of eligible Federal land within such local government, minus the total amount received under other Federal revenue sharing programs or, (2) 10 cents per acre of eligible Federal land located within such local government.

The total amount any local unit may receive is limited by that unit's population. Such payments may be used for any governmental purpose and, as indicated by table III totaled $95 million in fiscal year 1982.

Taxing the Federal lessee

While Federal programs for revenue sharing and payments in lieu of taxes represent a substantial transfer of money from the Federal to State governments, the States have an additional source of revenue generation as a result of Federal leasing activity. Potentially, this source is the most significant and many mineral-producing States have started to derive larges sums from the imposition of taxes on Federal lessees.

Once leased under the Mineral Leasing Act, onshore Federal lands are subject to all applicable State and local taxation laws. Therefore, in conjunction with the leasing of these lands, the host State and its political subdivisions, may tax the improvements, output, property or other assets of the lessee.[16] In fact, with respect to onshore leases, State governments may define a lessee's interest in a Federal lease as interest in real property for purposes of taxation. Additionally, the lessee is subject to State licensing and corporate license taxes.

The single largest source of State revenues from Federal mineral leasing is derived from the ability of States to impose a tax on the severence of minerals from Federal lands. Severence taxes are levies on depletable resources that are "severed" from the ground. Because a majority of the Nation's mineral-bearing lands are federally owned, this provision, in effect, allows states to place a tax upon the extraction of a Federal resource.

OCS lands leasing: Receipts to coastal States

In contrast to the broad recourse available to States faced with leasing of onshore Federal lands, the mechanisms of cost recovery available to coastal States affected by OCS development are severely limited. The coastal States receive no direct share of Federal OCS leasing receipts and, under section 4(a)(2)(A) of the OCS Lands Act, State taxation laws are not applicable to the OCS.

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[16] 30 U.S.C. 189.

Essentially, the ability of coastal States to derive revenue from federally sponsored OCS development is limited to the taxation of onshore support facilities. The General Accounting Office has concluded that, "in OCS development, where the states and communities are not able to tax the actual actual energy facility (or resource) but are limited to taxing onshore support facilities," the revenues generated will not usually compensate for impact costs.[17]

In is clear that Federal leasing of the OCS is the sole exception to the long-standing Federal policy of sharing a significant portion of receipts with affected States—through direct revenue sharing, in lieu payments and opportunities of taxation. The resulting economic inequity, borne by coastal States and communities, suggests that they are subject to a different form of federalism—one that places them in a disadvantageous position when faced with Federal leasing off their coastal areas.

Legislative History

S. 800 was introduced on March 11, 1983, by Senators Stevens, Packwood, Gorton, and Murkowski. The committee held a hearing on S. 800 on March 17, 1983. The committee also held hearings on August 12, 1982 and September 1, 1982 on similar legislation introduced in the 97th Congress. During these 3 days of hearings, the committee received testimony from the administration, States and local governments, industry officials, environmentalists, and scientists.

On April 21, 1983, the committee ordered S. 800 reported with an amendment in the nature of a substitute. The reported compromise bill is the result of negotiations with several interested members including those supporting S. 872, The Ocean and Coastal Resources Management Act, introduced by Senators Hollings and Johnston on March 21, 1983.

Summary of Major Provisions

As reported, S. 800 establishes an Ocean and Coastal Resources Management and Development Fund to provide coastal States with grants from Federal oil and gas revenues from the Outer Continental Shelf [OCS]. The fund, established from 5 percent of the Federal OCS revenues averaged over the preceding 3 years, provides funding for various purposes including the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), and a National Coastal Resources Research and Development Institute.

Subject to appropriations, the sea grant program would receive no less than 10 percent of the total amount deposited in the fund each year to carry out congressionally mandated responsibilities that include marine research, education, and advisory services.

The National Institute, administered in affiliation with the Oregon State University Marine Science Center, receives 1.5 percent of the total amount deposited in the fund each year to conduct unique research and demonstration projects to enhance ocean and coastal resources and marine economies.

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[17] General Accounting Office, "Mitigating Socioeconomic Impact of Energy Development", op. cit. p. —.

The State grants provide each coastal State and territory automatically with a percentage of the fund as follows:

(1) each coastal State with a federally approved coastal zone management program receives 1.5 percent of the amount in the fund;

(2) each coastal territory with a federally approved coastal zone management program receives 0.75 percent; and

(3) all other coastal States and territories receive 0.5 percent.

The remainder of the amounts in the State grants are dispersed by a formula which favors:

(1) proxmity to areas leased for oil and gas exploration by the Federal Government;

(2) amount of oil or gas produced off State shores;

(3) presence of coastal energy facilities;

(4) coastal population; and

(5) length of coastal shoreline.

An amount equal to at least 30 percent of each State's grant is passed through to that State's local governments. Both State and local governments may only use these funds for the following eligible uses:

(1) coastal zone management, planning, implementation, and interstate coordination authorized by the Coastal Zone Management Act;

(2) assessment and mitigation of OCS development impacts;

(3) ocean and coastal research, education, and resource management;

(4) management and enhancement of living marine resources;

(5) preservation and enhancement of the natural coastal habitat; and

(6) capital infrastructure for full utilization of coastal resources.

The uses of these funds by both State and local governments must be consistent with the State's coastal zone management program. If a recipient State does not have an approved coastal management plan, the uses of these funds must be in compliance with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

The State is accountable for the use of the State grant through an annual financial audit, conducted by an entity independent of any agency or official administering or using the moneys provided by the State grant. The Secretary of Commerce reviews each audit to discern misuses of the grants. Misuse; of the State grant results in the misused amount being deleted from subsequent grants or recovered through the legal process.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 29, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 800, the ocean and Coastal Resources Management and Development Act.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 800.

2. Bill title: Ocean and Coastal Resources Management and Development Act.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, April 21, 1983.

4. Bill purpose: The bill establishes in the U.S. Treasury the ocean and coastal resources management and development fund, and directs the Secretary of Commerce to establish a National Coastal Resources Research and Development Institute [NCRRDI].

Beginning in fiscal year 1984, the appropriation of moneys from the fund is authorized for national ocean and coastal resources management and development State grants, national sea grant colleges, and for the NCRRDI. No State may receive a grant until it has created a trust fund for the grant, and submitted a report to the Secretary of Commerce specifying the proposed distribution of the grant money among stipulated uses, including coastal zone management, coastal energy impact, natural resource enhancement, and capital infrastructure programs.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988
Estimated authorization level	440	420	470	525	570
Estimated outlays	440	420	470	525	570

The costs of this bill fall within budget function 300.

Basis of estimate: Beginning in fiscal year 1984, the bill requires the Secretary of the Treasury to deposit 5 percent of the average receipts for oil and gas leasing on the Outer Continental Shelf [OCS] for the 3 prior fiscal years. The estimated deposits into the fund are based on actual OCS receipts for 1981 and 1982, and on the estimated 1983–1987 receipts in CBO's baseline projections. For purposes of this estimate, it was assumed that the full amount in the fund will be appropriated each year for distribution among eli-

gible programs and the coastal States, and that the States will establish independent programs to carry out the purposes of this bill.

6. Estimated cost to State and local governments: The bill requires that at least 10 percent of each year's appropriation be used for the National Sea Grant College program and that 1½ percent of the appropriation be available for the NCRRDI. The remaining portion of the fund (approximately 88.5 percent of the total) would be distributed through the State grants program as follows:

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988
Allocation for State grants	300	370	415	465	505

These grants will be distributed to eligible coastal States according to a formula based on considerations including populations, shoreline mileage, recent bonus revenues derived from tracts off that State's shore, and recent oil and gas production of that State's shore. In order to receive a grant, each State must submit to the Secretary of Commerce a report specifying the proposed allocation among eligible programs, and must create a trust fund for the receipt of the grant. In addition, States receiving grants must submit an annual financial audit to the Secretary of Commerce.

It is expected that by participating, States would not incur any significant costs for administering the grant program.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Anne E. Hoffman.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee provides the following evaluation of the regulatory impact of the legislation, as reported.

The committee estimates that S. 800 would have a limited regulatory impact. The Secretary of Commerce must promulgate regulations providing for an annual financial audit of the trust fund established by each coastal State under section 5(c), including the funds provided by the State grant, and funds provided under section 6(b)(1). The National Coastal Resources Research and Development Institute will also be subject to audit requirements promulgated by the Secretary.

The committee intends under section 7(e) that any audit conducted on an entity-wide basis of the State organization administering the grant, and conducted in accordance with other Federal laws, shall be accepted as satisfying the audit requirements of the act. This provision will avoid duplicative and costly audits of State grant moneys and will allow the Secretary to issue regulations calling for such audits, to be based on standard auditing procedures.

The Secretary will also promulgate regulations stipulating the form of the State's report on intended use of State grant moneys. This provision will direct States to provide the Secretary with a complete and coherent listing of proposed uses for such grant.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 of the bill provides that this act may be cited as the "Ocean and Coastal Resources Management and Development Act."

Section 2. Findings

Section 2 of the bill sets forth the findings about Outer Continental Shelf revenue sharing upon which the policies, purposes, and provisions of the bill are based. The section finds the following: (1) while it is in the Nation's interest to develop Outer Continental Shelf oil and gas resources, such development may cause adverse impacts to coastal States; (2) coastal States may not be financially able to respond to such impacts; (3) revenues derived from Outer Continental Shelf development should be invested in ocean and coastal resource management and enhancement; (4) the Mineral and Lands Leasing Act of 1920 serves as one of many precedents of a Federal leasing program providing compensation to States; (5) the ability of coastal States to manage ocean and coastal resources without Federal financial support will be diminished; and (6) it is in the national interest to maintain support for State ocean and coastal resource management.

The committee believes that since coastal States are affected by OCS resource development activities, the States deserve a share of the OCS leasing revenues presently acquired by the Federal Government. Further, the States should determine the ultimate use of such funds within the guidelines specified by this act. The act will enhance the Federal/State partnership in the present atmosphere and the spirit of "New Federalism."

Section 3. Definitions

Section 3 of the bill defines several terms, including "bonus revenues" to mean all revenues collected by the Federal Government from the leasing of tracts of land within the Outer Continental Shelf for resource exploration and development, "coastal State" to mean any State of the United States in, or bordering on, the Atlantic, Pacific, and Arctic Oceans, the Gulf of Mexico, Long Island Sound, or the Great Lakes. Other terms defined are: "coastal territory," "Secretary," "coastal related energy facilities," "Outer Continental Shelf," "tract," "State," and "local government."

In defining "local governments," the committee selected the definition supplied in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)). In Alaska, the committee recognizes that there are significant areas which will be affected by OCS activity and which do not have local governments that qualify under this definition. Thus, the committee expanded the definition for Alaska to include unincorporated areas, including Alaska Native Villages, as eligible to be selected by the Governor to receive local

passthrough funds when no local government as defined in the Coastal Zone Management Act exists to receive and administer funds for that area or community.

Section 4. Ocean and coastal resources management and development fund

Section 4(a) of the bill establishes a fund known as the "ocean and coastal resources management and development fund." The Committee hopes the action of designating a specific Fund for the purposes listed in S. 800, and specifically for the statutes included, will facilitate the work of the Appropriations Committee in making an adequate level of funding available to support what this committee believes are programs of significant national value.

Section 4(b) requires that the Secretary of the Treasury pay into the fund 5 percent of the total amount deposited in the Treasury, pursuant to section 9 of the Outer Continental Shelf Lands Act (OCSLA), averaged over the preceding 3 years. This averaging technique will serve to dampen large year-to-year fluctuations in OCS revenues, providing coastal States a stability of funding that may otherwise be absent.

Section 4(c) specifies that the amounts deposited in the fund will only be used for the purposes of this act, and monies not appropriated in a fiscal year for the purposes of the act shall remain in the fund for appropriation in subsequent fiscal years.

Section 4(d) suggests that at least 10 percent of the fund in each fiscal year be used to carry out the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

Section 4(e) establishes a National Coastal Resources Research and Development Institute, administered in affiliation with the Oregon State University Marine Sciences Center. The Institute will conduct research and demonstration projects to develop ocean and coastal resources and enhance coastal economic diversification. The Institute is funded at 1.5 percent of the amount deposited in the fund for each fiscal year and disbursed by the Secretary of the Treasury. The Institute must report on its activities within 2 years of enactment, and is subject to audit requirements.

It is the committee's intent to establish a center of academic excellence to address the unique problems of coastal States. One problem of particular concern is the narrow economic diversity of coastal economies throughout the Nation. Tourism, marine recreation, fisheries and OCS-related development provide the backbone of economic support for many coastal States. Of particular interest to the committee is the concept of using moneys generated from nonrenewable offshore development for investment in a coastal State's economic future, a future that someday will not include these OCS nonrenewable resources.

The committee believes it is shortsighted to provide a fund that would support coastal management and planning, without also providing a mechanism such as the Institute to enhance the understanding of existing living and nonliving resources of the coastal area.

The goals of the Institute will be to further the development of the Nation's ocean and coastal resources in a sound and balanced manner, to promote the economic diversification of coastal States'

economies, and to better prepare these States for a future without these nonrenewable resources and the economic support they now provide.

The Institute's primary emphasis will be long-range research and development, while secondarily, addressing urgent coastal and ocean development needs. With the Institute established within a University structure, provisions will be made to attract leading scholars and faculty to the Institute for short-term appointments, addressing these needs.

This section describes a step beyond our present capabilities, a development and demonstration Institute to move promising ideas closer to application. This will be nonduplicative of present programs and can serve as a national and even international model for oceanic development. The Institute would move beyond the educational and advisory programs conducted by sea grant to a longer range, broader structure aimed at putting American oceans to work in a comprehensive and environmentally efficient manner.

The major areas of program emphasis will include international seafood marketing, trade development, ports and transportation, fisheries habitat enhancement, living resource development, and nonliving resource development. An Institute program leader will be selected from among national academic leaders in each area of concentration.

The committee believes that the management structure of the Institute should be overseen by the Oregon State Board of Higher Education. The Board should establish a 12-member executive council comprised of State, regional and national representatives to develop policy, select program concentration areas, review and evaluate programs, and select an Institute director. The memebers of the council would be chosen based on their marine or coastal orientation, knowledge, training and public service.

Section 4(f) specifies that moneys not distributed to the Institute, the national sea grant program or allocated for passthrough to local governments, are to be used to provide States grants under sections 5 and 6.

Section 5. National ocean and coastal resource management and development State grants

Section 5(a) establishes that the Secretary shall provide for a National Ocean and Coastal Resources Management and Development State grants from sums existing in the fund.

Section 5(b) specifies that no State grant will be paid from the fund to a State in any fiscal year unless the State has submitted a report to the Secretary of Commerce that specifies and describes the use of the allocation and, prior to submitting the report, provides opportunities for public review and comment on the report and at least one public hearing.

Section 5(c) requires that a State create a trust fund for the receipt of the State grant.

Section 5(d) describes the process for determining State grants. Each coastal State with an approved coastal zone management program will receive 1.5 percent of the amount of the fund for the fiscal year; each coastal territory with an approved coastal zone management program will receive 0.75 percent of the amount of

the fund; and all other coastal States and territories will receive 0.5 percent of the amount of the fund.

The remainder of the fund is distributed to States by a formula based on the following criteria: (1) coastal population, a 35 percent consideration; (2) shoreline mileage, a 15 percent consideration; (3) coastal related energy facilities, a 10 percent consideration until 1995 at which time the consideration is increased to 20 percent; (4) the amount of bonus revenues derived from tracts in which a State has an interest, a 20 percent consideration until 1995 at which time the consideration is decreased to 10 percent; and (5) the amount of oil or gas produced off State shores, a 20 percent consideration.

The change in percentage consideration for coastal energy facilities and bonus revenues, is designed to account for the fact that bonus revenues derived from lease sales should decrease substantially as lease offerings are completed.

Section 5(e) specifies that the percentum considerations for coastal population, shoreline mileage, and coastal-related energy facilities only apply to those States with an approved coastal zone management program; and the percentum considerations for proximity to producing fields and amount of oil and gas produced apply to those States with an approved coastal zone management program or those making sastisfactory progress toward such a program.

Section 5(f) requires that no State shall receive more than 15 percent of the amount of the fund in a fiscal year.

Section 5(g) requires that the amount of the fund remaining pursuant to subsection(f) in a fiscal year be shared proportionally with all States not subject to Section 5(f).

Section 5(h) defines the term "share proportionally" to mean an increase in a State's grant in proportion to its allocation formula.

Section 5(i) specifies that a State has an interest in a tract if any part of the tract is within a linear distance of 250 nautical miles from the baseline from which the territorial sea is measured. An exception is set out for the State of Connecticut, which does not have a territorial sea.

Section 5(j) defines the percentum for those tracts in which more than one State has an interest pursuant to subsection (d) as proportional to the relative distance between the closest point on the base line of each State to the closest part of such tract.

Section 5(k) states that this act does not affect section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458), except that the Secretary shall reduce any State grant provided under this act by no more than 30 percent of the amount of such a State grant which is attributable to subsection (d)(1) (A) and (B) and subsection (d)(2) of section 5 if the Secretary makes the determination provided in section 312(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458(c)).

Section 6. Requirements on the use of State grants

Section 6(a) specifies the uses of State grants for the following activities: (1) coastal management, planning, implementation, interstate coordination, and other provisions authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (2) assessment and mitigation of impacts resulting from ocean or coastal energy activities, as authorized by the Coastal Zone Management

Act of 1972 (16 U.S.C. 1456a); (3) long-range ocean and coastal research, education, and resource management; (4) management and enhancement of living marine resources; (5) preservation and enhancement of natural coastal habitat; and (6) construction of capital infrastructure necessary for the full and sustained use of coastal resources.

It is the Committee's belief that coastal State governments are more immediately aware of ocean and coastal management problems within their borders and should be provided the opportunity to address those problems by their own determination. The list of eligible uses is broad enough to address issues peculiar to the coast, yet does not mandate a specific percentage of funds to be spent on any one category. A State's expenditures within these categories of eligible uses must be consistent with that State's coastal zone management plan. If a recipient State does not have an approved coastal management plan, the uses of these funds must be in compliance with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)

The CZMA authorizes activities including: activities to preserve or restore specified coastal areas, urban waterfront and port renewal, public access to the coast and other specified activities. The CZMA also provides for the mitigation of energy activities significantly affecting the coastal zone, including provisions for public services and facilities necessitated by such development.

Long range research and education most often are coordinated at the University level within States, and it is the Committee's intent that such research and education functions, whether conducted within the University structure or elsewhere, be eligible for funding through State grants.

The management and enhancement of living marine resources should be broadly interpreted so that States may spend these funds according to their own management priorities. The Committee expects that where there are responsibilities for cooperative regional efforts at management and enhancement, these should be maintained.

The term "capital infrastructure" is used to include a variety of uses including, but not limited to, public services such as waste water treatment and management, roads, schools, docks and other facilities required by the impacts of OCS development or necessary to maximize the efficient and balanced use of coastal resources. Any such activity must be conducted in a manner that is in compliance with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

It is not the committee's intent to deny Federal support to specific national programs such as sea grant, coastal zone management, or various national fisheries development programs by encouraging individual States to provide piecemeal support for such efforts within their boundaries. Rather, the fund is intended to augment, not replace, existing Federal support for these programs of national concern. In addition, the State grants are not meant to diminish the national character or national importance of the programs funded by this legislation. The national and regional focuses of these programs must be maintained. In the case of the national sea

grant program, the funds are meant to be supplemental to current State sea grant efforts.

Section 6(b) requires that an amount equal to 30 percent of a coastal State's grant must be distributed to local governments to carry out the activities pursuant to subsection (a) if such activities are in compliance with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). Each State may provide an additional amount of its State grant to local governments pursuant to the report filed with the Secretary of Commerce under section 5(b)(1).

It is the committee's firm intent that local communities share directly in revenues generated on the OCS. Onshore impacts of offshore development including population relocation and other economic stresses are most directly felt at the local level. In keeping with the premise that States recognize their own needs best, the Governor of a coastal State, in compliance with applicable State law, is alloted the responsibility to allocate funds among that State's eligible local governments, port authorities, or other entities which may be eligible to receive them.

Section 7. Audit

Section 7(a) requires that any States receiving a State grant for a fiscal year under section 5 submit a financial audit of the trust fund to the Secretary not later than 90 days past the close of the State's fiscal year.

Section 7(b) specifies that each audit be conducted by an entity independent of any agency or official receiving or using funds provided by the State grant. The audit will contain a statement of all funds provided by the State grant to the State for each fiscal year. The Secretary may extend the audit deadline for a State an additional 90 days if there is a demonstrated need for the extension.

Section 7(c) requires that the Secretary make a preliminary evaluation of the financial audit not later than 45 days after receiving it. If the Secretary determines a misuse of the State grant or funds in the preliminary evaluation, notice of this finding shall be published in the Federal Register. Not later than 45 days after the publication of this notice, the State may hold a hearing. If no hearing is held, the Secretary makes a final determination within 90 days after notice publication. If a hearing is held, the Secretary makes a final determination within 60 days of the conclusion of the hearing. If the final determination is a misuse of the State grant or funds, the Secretary will provide in writing to the State the reasons for the determination and the amount of funds misused. Misuses of the State grant or funds will result in the misused amount being deleted from a State's future State grant or funds provided under section 6(b)(1), or the recovery of the amount through appropriate legal means.

Section 7(d) specifies that the State has a 60-day period following notification of the Secretary's final determination in which to file an appeal. If an appeal is filed, funds are withheld by the Secretary in escrow until a final determination is made. If no appeal is filed, any funds withheld or recovered by legal process shall be returned to the fund for distribution pursuant to section 5(d).

Section 7(e) specifies that States that have audits conducted on an entity-wide basis of the State organization administering the

State grant, mut be in accord with other Federal laws and regulations and meet the audit requirement of subsection (b) in order to satisfy the audit requirements of this Act.

Section 8. Rules and regulations

Section 8 places the regulatory responsibility of this act with the Secretary of Commerce.

EFFECTS OF COMMITTEE AMENDMENT

The committee amendment strikes all after the enacting clause and inserts new text. The amendment incorporates a number of technical changes as well as substantive amendments recommended by the committee after consideration of hearing testimony and which reflect the agreement negotiated among the members.

These changes include the following:

(1) The fund will now receive 5 percent of OCS revenues averaged over the preceding 3 years, rather than 5 percent each fiscal year. This should dampen fluctuations in the fund to assure a steadier source of funding for coastal States.

(2) The Secretary will set aside not less than 10 percent of the total fund to be used to supplement appropriations for the National Sea Grant College Program Act.

(3) Only States having an approved coastal zone management program are now eligible to receive those funds allocated by formula. State grants are now calculated on the following factors: Oil and gas production, bonus revenues, coastal population, shoreline length, and a consideration for coastal energy facilities located within a State's coastal zone. These energy facilities may include coal transport or storage facilities, conventional power generating facilities, or nonconventional facilities such as geothermal or wind-powered units. Weighting factors have been modified to provide a 35-percent consideration for population, 15 percent for shoreline mileage, 10 percent for coastal energy facilities located within the coastal zone, 20 percent for bonus revenues, and 20 percent for oil and gas production.

(4) The limit to the amount of moneys a State may be eligible to receive in a fiscal year is 15 percent of the total fund.

(5) Eligible uses of the fund are expanded to include the preservation and enhancement of coastal habitats and capital infrastructure activities which enhance the full and substantial utilization of coastal resources.

(6) The determination by the Secretary to withhold funds due to prior misuse by the States is no longer specified to be subject to judicial review initiated by States or local governments.

(7) State grants are now subject to appropriation acts, while the Institute and local government passthrough funds remain subject to direct sharing of revenues generated on the OCS.

ROLLCALL VOTES IN COMMITTEE

In accordance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the committee provides the following record votes during its consideration of S. 800.

On motion to report an amendment in the nature of a substitute to S. 800:

YEAS	NAYS	PASS
Packwood	Danforth	Gorton
Kassebaum [1]		
Pressler		
Stevens		
Kasten [1]		
Trible		
Hollings		
Long		
Inouye		
Ford [1]		
Riegle [1]		
Exon		
Heflin		
Lautenberg		

[1] By proxy.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the committee states that the bill as reported would make no change to existing law.

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